

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Treasurer of State

Regulation/Package Title: Ohio Pooled Collateral Program

Rule Number(s): 135-3-01

Date: February 28, 2017

Rule Type:

- New

Amended

5-Year Review

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

This rule will permit the office of the Ohio Treasurer of State (“Treasurer’s Office”) to fulfill its obligation required by Ohio Revised Code (“R.C.”) 135.182 to create and implement the

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Ohio Pooled Collateral Program. The proposed rule will govern the transition of public depositories and local governments into the program. In addition, the rule will govern admittance into the program and the methods in which local governments will participate in the program.

The Ohio Pooled Collateral Program is optional for public depositories, and the Ohio Revised Code offers another method for collateralizing public deposits.

The proposed rule will do the following:

- Allow the Treasurer's Office to maintain an operating policy for the program.
- Govern the transition of public depositories and local governments into the program.
- Outline the application requirements for public depositories.
- Outline the methods in which local governments will participate in the program.
- Outline how collateral trustees will participate in the program.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 135.182 charges the Treasurer's Office with the creation and implementation of the Ohio Pooled Collateral Program. This proposed rule is adopted by the Ohio Board of Deposit under R.C. 135.48 with the Treasurer's Office acting as agent.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

No

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

N/A

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The public purpose of this rule is to ensure that public monies are properly collateralized under the R.C. and to allow for transition of public depositories into the Ohio Pooled Collateral Program.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The Treasurer's Office will measure the success of this rule by examining how smoothly public depositories and local governments transition into the Ohio Pooled

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Collateral Program. Additionally, the office will measure the success of this rule by the volume of participation in the program by public depositories and local governments.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

The Stakeholders that were included in the development of the draft regulation included the following:

First	Last
Robert	Palmer
Mike	Vynalek
Shantel	Laird
Mike	Sams
Tom	Ruebel
Ashley	Westcott
Patrick	McCarthy
Chuck	Dixon
Todd	Bailey
Roger	Grywalski
Julio	Ortiz
Matt	Alexander
Eric	Pace
Mark	Duhamel
George	Sesock
Jeff	Sirota
Chris	Christoff
Shawn	Bunt
Lara	DeLeone
Chris	Pugliese
Maureen	Grant
Janet	Schlifer
Kathleen	Byrne
Jay	Fortlage
Larry	Whelan
Beth	Dallinga
Eric	Meilstrup
Bradley	Ruppert

Bruan	Marshall
Dustin	Holfinger
Sandy	Hoehne
April	Dusthimer
Paul	Turner
Patrick	Graham
David	Nickerson
Thomas	Lamb
Melissa	Bitzer
Mark	Metz
Brett	Murawski
Patti	Jackson
Liza	Kovac
Scott	Horan
Allison	Thellman
Laura	Murphy
Tony	Brigano
Kevin	Ackerman
Marsha	Davis
Rachel	Weaver
Barbara	Scheiderer
James	Nikolia
Karen	Bigelow
Tim	Rieder
Teresa	Moon
Michael	Sheridan
J.	Heagy
J.	Murtha
B.	Brubaker
D.	Skowronski
R.	Dottavio
Anna	Durst
Suzanne	Parks
Jill	Thompson
Fran	Lesser
Brad	Cole
Cheryl	Subler
Tom	Steenrod
Jim	Aumann
Kevin	Futryk

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Steve	Welton
Steve	Metzger
David	Varda
Barbara	Shaner
Josh	Brown
Ed	Albright
Jeff	Rayis
Heidi	Fought
Amy	McMahon
Jeff	Smith
Laura	Brown
Christopher	Hopkins
Linda	Simko

Division D was circulated to the public depository interested parties on October 20, 2016 at an in person meeting and also via electronic mail.

All divisions contained within this rule were shared with the list above via electronic mail on January 13, 2017 and feedback the rule was requested.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Please see the attached document regarding feedback received and the impact on the draft regulation

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

N/A

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The Treasurer's Office considered not requesting the attached rule, but after discussions with the interested parties determined that a rule was necessary to provide for a smooth transition into the Ohio Pooled Collateral Program.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

No the Treasurer's Office did not consider performance-based regulation, because a performance-based regulation was not possible for this purpose.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Treasurer's Office reviewed applicable sections of the Ohio Revised Code and the Ohio Administrative Code to ensure that we did not duplicate any existing regulations. The Ohio Pooled Collateral Program is a new program that takes the place of the previous pooling method permitted under the Ohio Revised Code.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The Treasurer's Office will implement this rule through our office with the creation of the Ohio Pooled Collateral Program and the operating policies for the program. The operating policies will ensure that the measures included in this rule are applied uniformly to all participants in the program.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- **Identify the scope of the impacted business community;**
- **Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- **Quantify the expected adverse impact from the regulation.**

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The scope of impacted business community includes financial institutions that apply for and are approved as public depositories. Those entities must also apply for and be selected to hold public deposits by the state or local government. However, the Ohio Pooled Collateral Program is optional for public depositories and the Ohio Revised Code offers another method for collateralizing public deposits.

This proposed rule will have an impact on the business community, but we believe a positive impact since it provides a transition phase into the Ohio Pooled Collateral Program. The Ohio Revised Code does not grant a transition period to public depositories and would require extensive work without the proposed rule.

The Ohio Pooled Collateral Program will require time for compliance by public depositories. The Treasurer's Office does not have an estimate of the impact since it will differ for each financial institution depending on a variety of factors and a public depository is not required to use the program to collateralize their public deposits.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Treasurer's Office determined that the regulatory intent justifies the impact to the business community, because the Ohio Revised Code requires the Treasurer's Office to create and implement the program, which is voluntary for public depositories. The Ohio Revised Code offers another option for collateralizing public deposits.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

The Ohio Revised Code offers another option for collateralizing public deposits.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The proposed rule does not include any fines or penalties.

18. What resources are available to assist small businesses with compliance of the regulation?

The Treasurer's Office will adopt operating policies for the program to assist financial institutions with compliance.

Workflow	Description	Feedback
Draft OPCS Rules	Part C references that the holding company is applying for the program, however, part D and E specifies that the financial institution is approved or denied and the rest of the rules refer to the obligation of the financial institution. Is there a reason that the application is made by the holding company, but the obligations are on the depository financial institution?	TOS will edit the rules to show that the Financial Institutions are the ones that apply.
Draft OPCS Rules	OPSP should provide a template for the public depositor certification to guide the process and expectations.	TOS will provide an example of this agreement in the operating policy. However a FI can utilize their current agreement / contract / BSA to fulfill this requirement if that document contains all the necessary information as required in the rule.
Draft OPCS Rules	Part G(2)(a): Operationally, guaranteeing the collateralization of funds received by the end of the same business day is difficult. According to ORC123.182, the balance of public deposits secured by the pool is determined by the opening daily ledger balance, which is generally “as-of” close of the previous day’s business, and includes funds received on the previous day. Although financial institutions generally keep enough buffer to collateralize inflows, the exact amount of collateralized balances would not be determined until the opening of the next business day. Financial Institutions would need a reasonable amount of time to correct any potential short-falls without being considered substantially out of compliance.	<p>TOS Proposed Change to Section G (2) and G (2) (a)</p> <p>(2) Pledge sufficient collateral when <u>uninsured</u> public deposits are received <u>and at all times</u>; (a) Financial institutions must use best efforts to pledge collateral at the same time public fund deposits are received, but no later than close of business on the same day of the deposit. The treasurer of state will account for insurance through the Federal Deposit Insurance Corporation based on the formula outlined in the operating policies, which may deviate from actual Federal Deposit Insurance Corporation limits.</p> <p><u>(b) A financial institution must address collateral deficiencies in accordance with the operating policies.</u></p> <p>In accordance with 135.182(B)(1), each institution shall pledge a pool of eligible securities to secure the repayment of uninsured public deposits, "<i>provided that at all times the total market value</i> of the securities so pledged is at least equal to..." 102% or an amount determined by the treasurer (emphasis added).</p> <p>TOS will notify a financial institution of any collateral deficiencies. See section (P)(2)(b).</p>
Draft OPCS Rules	Part G(4): Should include rules on timing of release of collateral just as part G(2) sets rules for the timing of providing collateral. This timing should be consistent between the two rules.	TOS will include release timing in the operating policy.
Draft OPCS Rules	Part G(6): Specify that “maturity” is “final maturity” and does not include normal amortization of principal, especially due to normal pay downs on MBS, CMOs, etc.	As used in part G(6), the term maturity conforms to general industry practice and does not include the normal amortization of principal.
Draft OPCS Rules	I(1): It's unclear in the rule who determines the market price of collateral. If it's someone other than the financial institution, the FI would need to be able to duplicate the market prices daily to ensure compliance.	Section P/1/A: "TOS will share the source of the pricing"
Draft OPCS Rules	Page 3. (28) “Specific pledge account” refers to an account containing a security or securities pledged for the benefit of one specific public unit by a financial institution participating in the pooling method. I believe this is a typo. Specific Pledging would be used by an FI NOT participating in the pooling method.	Specific Pledged Account is inside OPCS. Specific Pledged Method is outside OPCS

Draft OPCS Rules	<p>Page 6. (l) Public units shall participate in the OPCP in the following methods: (b) Public units shall mutually agree to communication prompts with their financial institution to notify the financial institution of any atypical changes in deposits within a reasonable time prior to the change.</p> <p>What are “communication prompts” are. Is this something FIs are going to have to negotiate with each customer? Will it need to be in contractual form so that if the customer does not notify us timely enough to pledge adequate collateral, the bank is not found to be at fault for non-compliance?</p>	TOS will remove I1B from the rules
Draft OPCS Rules	<p>What are the requirements for organizations to become a qualified trustee to hold collateral? Will there be minimum capital, location, or other requirements in addition to the processing abilities/requirements you mention tangentially in the presentation? The term “qualified trustee” is used in (G)(3) but is not defined. Will the TOS publish a list of Qualified Trustees? If so, where and when?</p>	The Ohio Department of Commerce Division of Financial Institutions determines approved collateral trustees in Ohio. Please contact this department for more information.
Draft OPCS Rules	<p>P6) Section J) A) - Is the reduction automatic if approved? Or Can the FI decide the to use it or not?</p>	Yes. The reduction is automatically applied once a FI is approved for a reduced collateral floor. Please note, a FI can report all PU accounts on their daily balance file with a higher collateral level, i.e. 102% if they so choose.
Draft OPCS Rules	<p>P8) Section L) C) ii) 1) - Is the weighted average maturity calculated based on all assets? All earning assets? Or all loans?</p>	
Draft OPCS Rules	<p>P11) L) 6) G) - The condition related to the maximum of 30% of deposits business compromised of Ohio public funds raises a concern as some FI may have more than 30%</p>	TOS will harmonize this rule with ORC 135.03
Draft OPCS Rules	<p>C - The bank holding company may apply for OPCP for its financial institution:</p> <p>When does the application process start?</p> <p>Where can we find the application?</p> <p>If approved, will the FI and TOS execute an agreement defining the requirements of each party and will it contain a confidentiality agreement?</p>	<p>TOS has removed the provision regarding the bank holding company and replaced it with financial institution. The application process will most likely begin once OPCS is open, no later than July 1, 2017.</p> <p>The FI and TOS will not execute an individual agreement for OPCS. In order to participate in OPCP, an FI will accept the operating agreement for OPCS and OPCP. The operating agreement will define the terms of service and responsibilities of the parties.</p> <p>TOS, OPCS, and the OPCP are subject to public records requests. TOS will comply with all public records requests in accordance with the Ohio Public Records Act.</p>
Draft OPCS Rules	<p>D (3) – Reporting requirements: What level of reporting detail will the FI be required to provide on public unit deposit balances? At the account level or an aggregated deposit totals?</p>	FI's are required to provide two daily files to OPCS. The Daily Balance File requires FI's to report Public Unit balances at the account level. The Daily Demographic File reports PU contact information at a relationship level.
Draft OPCS Rules	<p>E – Notification that FI was not approved for OPCP: How much notification will the FI receive prior to the 7/1/17 deadline that it was not approved for OPCP? Sufficient time would be needed in order to setup the various specific accounts required.</p>	Applications for OPCS may not be available prior to July 1, 2017. However, TOS is working through the rule process to provide FI's the opportunity for a grace period until December 31, 2017 to transition into OPCS.

Draft OPCS Rules	F – FI certification for each public depositor that evidences the agreed upon collateral rate per account: What is the definition of “per account”? Is this per public unit TIN or each individual account the public unit has with the FI?	"Per account" is defined as each individual account a PU has with a FI. In the event that a PU/FI deposit agreement covers a PU at the relationship level, a FI may submit a single deposit agreement in accordance with the operating policies.
Draft OPCS Rules	G – Operating Policies: Can we receive a copy of the operating policies?	The operating policies are not yet available but will be shared at a later date.
Draft OPCS Rules	I – Public units participation in OPCP: (1)(a) – What level of detail will the FI be reporting on public unit deposit balances? (4) – in the OPCP, could a FI be required to pledge greater than the required 102%? Could the FI have a public unit require the statutory 102% on one account, the reduced on another, and then higher than the 102% on a third account?	FI's are required to provide two daily files to OPCS. The Daily Balance File requires FI's to report Public Unit balances at the account level. The Daily Demographic File reports PU contact information at a relationship level. There are two conditions whereby a FI could be required to pledge greater than the required 102%, specifically: 1) The FI is operating at a State Floor of 102% and TOS has determined the FI to be out of operational compliance with OPCS and has implemented a "TOS Cushion" which can be 0-10%. 2) The FI has negotiated a higher collateral level with a specific PU relationship or account and the FI reports the higher collateral amount on the Daily Balance File. For the example posed in this question, yes with one clarification: The Statutory floor of 102% applies to FI's that have not applied, or have been approved for, a reduced collateral floor. This question presumes the FI has been approved for a reduced collateral floor, i.e. 50%, which is in effect the FI's Statutory Floor. Therefore the FI could have a PU requiring collateral at 102% (not the Statutory Floor), a PU requiring 50% (the Statutory Floor), and another PU with greater than 102%. OPCS can accomodate this example.
Draft OPCS Rules	J - The financial institution may apply for reduced collateral floor: When does the application process start? Where can we find the application?	The application for a reduced collateral floor is not yet available and the process to apply will not begin until OPCS is up and running.
Draft OPCS Rules	Page 12 of 14 (M) (3) (b) reads “maximum of one hundred and two percent.” Should it be 105%?	No, 102% is the correct number.
Draft OPCS Rules	A) 22) - Are the variables subject to change? If so, what would the process and notification period?	Yes the variables are subject to change. Once these variables are put into rule any changes will have to be made through the rule process. That process is a minimum of 76 days but can be longer. These rules are promulgated via chapter 119 of the ORC and a public hearing is required.

Draft OPCS Rules	A) 28) Please confirm FI's that choose to individually collateralize could join the pool but maintain a separate account but no eligible for a reduced floor. Would the FI need to send separate collateral?	<p>FI's that have a PU that qualifies for a Specific Pledge Account (SPA) will be permitted to join the pool while having the qualified PU in a segregated account (SPA). Specific Pledge Accounts will collateralize at 105% and will not be eligible for a reduced collateral floor. Specific Pledge Accounts will have separate collateral for those accounts and separate legal agreements.</p> <p>ORC 135.18 indicates that there are two options for FI's to use to secure ALL of their public deposits. They can either use specific pledge at 105% or OPCS (ORC 135.182) at 102% or a rate set by the Treasurer in Rule. Each FI will need to make the commercial decision about entering the pool. However, ORC states that an FI must choose one method, either specific or OPCS, for ALL public deposits.</p>
Draft OPCS Rules	B) 1) Please confirm, If a PU refuses to join the pool even though they would have their own account, FI would not accept the deposits if opted into the OCPS ?	The FI is the entity that decides whether or not to join OPCS. Each FI will need to have a commercial discussion with their underlining PUs as appropriate. However, ORC states that an FI must choose one method, either specific or OPCS, for ALL public deposits.
Draft OPCS Rules	C) 2) How do we provide evidence to this requirement?	In the OPCS Application, the FI will represent and warrant that they will maintain separate, accurate, and complete records relating to the pledge of collateral, deposits of public funds, and transactions related to the pledges of collateral. Further, the operating agreement will specify that a FI must provide a copy of their records at the discretion of TOS.
Draft OPCS Rules	<p>G) 2) What will be the hours of operation be for OPCS?</p> <p>If collateral is delivered to the Trustee, but they fail to send the information to TOS before close of business, will the FI be given credit for the collateral for that day?</p> <p>Can OCPS accept two collateral files daily from two different Trustees?</p>	<p>Hours of OPCS operation will be 8:00 a.m. to 5:00 p.m. ET every day the Federal Reserve bank is open for business.</p> <p>TOS relies on evidence of receipt from the Trustee prior to posting the collateral to the FI's collateral pool in OPCS. TOS will not back date the collateral posting but will post the position once the asset reconciliation outage was identified, typically next day.</p> <p>Yes, OPCS will receive several Trustee files daily that will be used to reconcile collateral positions TOS accounts on our Investment Accounting system.</p>
Draft OPCS Rules	G) 2) b) Why would OPCS deviate from actual FDIC limits? Will they announce its methodology?	<p>OPCS is designed to perform a "proxy" FDIC insurance coverage calculation at the FI and PU TIN/Account Type level. This functionality is in place to ensure FIs are not subject to excess collateral requirements by not recognizing FDIC insured deposits.</p> <p>It is important to note, a PU's FDIC insurance coverage is not determined at the TIN level. While TIN is generally accepted as a unique identifier all FIs will have on file and can provide, it is possible that the OPCS proxy FDIC calculation relying on the PU's TIN could result in an overstated or understated FDIC insured PU deposits reflected in OPCS.</p> <p>TOS shared the proxy FDIC methodology with FIs at a meeting in July of 2016. Copies of that PowerPoint are available upon request.</p>
Draft OPCS Rules	G) 3) d) In a previous meeting, it was mentioned that the FI had to submit a pledge ticket before any collateral movement is made. Is this still a requirement?	OPCS will not recognize additional collateral until deposit confirmation is received from the appropriate Collateral Trustee. OPCS will require FI collateral release instructions in writing or via OPCS instruction prior to initiating the release to the appropriate Collateral Trustee.

Draft OPCS Rules	G) 3) d) i) If a FI pledges both an LC and securities will this FI be eligible to be its own Trustee? Will the FI be able to open an account with itself as Trustee to hold the collateral and send the statement as Trustee?	No. ORC 135.182(F) does not permit a FI to act as a trustee for itself or an affiliate as defined in ORC 1109.53.
Draft OPCS Rules	G) 4) Will the decision of the request be sent directly to the FI, as well as the Trustee? Will this be available to see through the Portal? What is the turnaround time for requests to be approved?	After reviewing the FI collateral release request, TOS will respond to the FI. If the release request is approved, an approval notification will be sent to both the FI and the Trustee. If the request is rejected, a rejection notification will be sent to the FI only. If the FI submits the release request before 11am, the release will be implemented the same day. If the FI submits the release request after 11am, the release will be implemented the subsequent open day.
Draft OPCS Rules	G) 4) If a security is called prior to a release, how is that handled?	FIs are responsible to monitor their collateral positions for all upcoming events, i.e. calls, maturities, etc. and take steps to request a release via substitution or straight release via OPCS. In the event a security is called, or matures, prior to collateral release, the collateral trustee will hold the corresponding principal cash until a release request is submitted by the FI and approved by TOS.
Draft OPCS Rules	G) 7) What is the range of the collateral cushion?	The proposed TOS Collateral Cushion range is 0 - 10% and is assigned at the discretion of TOS based on FI OPCS operational non-compliance.
Draft OPCS Rules	H) 1) How soon after the trustee sends the collateral file, will OPCS publish reports with market value?	TOS will post,maintain, and price all FI Collateral positions on TOS' Investment Accounting system, APS2. The Collateral Trustee files are solely utilized to reconcile the collateral positions maintained on APS2. The prior day priced collateral positions will be uploaded to OPCS by 9:00 a.m. ET daily and is generated by APS2.
Draft OPCS Rules	J) 1) Are the collateral floors made public? Is this Application available on-line? How does a financial institution get this application? How long does the approval process take?	A financial institution that applies for a reduced collateral floor will have a SCALE report generated and saved within OPCS. While this file is not publically visible, it will be contained within the FI profile and underlying PUs will be able to view the report. Any record kept in OPCS that is deemed a public record is subject to release if a proper request in made pursuant to Revised Code section 149.43, et seq. Once a FI profile and user credential have been established in OPCS, the FI can apply for a reduced collateral floor directly within the system. It is anticipated the review and approval process to take up to 30 days.
Draft OPCS Rules	J) 1) What is the notification process?	When a FI applies for a reduced collateral floor, TOS reviews the FI application based on the SCALE Model. If the FI application is rejected by TOS, OPCS will send a notification to the FI of the application rejection. The notification will include the reason for the rejection.
Draft OPCS Rules	L) 2) What is the frequency of the SCALE report after the initial application process? If a financial institutions floor is changed, are the financial institutions required to notify public units or will OPCS notify them?	FIs approved for a reduced collateral floor will be subject to a quarterly review of their SCALE status. Changes to a FI's SCALE results may lead to Bank Monitoring. OPCS will notify PUs of changes to a FI's statutory floor. In the case where a change of a PU's negotiated floor value is reported in a FI daily balance file, OPCS will notify both the FI and the impacted PU of the change in the reported negotiated floor value.
Draft OPCS Rules	L) 7) Could this be challenged?	No.

Draft OPCS Rules	L) 9) What is the purpose of the delay?	The 30 day waiting period is in place to ensure the FI is operationally stable within OPCS prior to implementing a reduced collateral floor.
Draft OPCS Rules	P) 1) What is the process for financial institutions to challenge the market value of any security? What is the turn-around time for a decision?	Should a FI disagree with the market value of a collateral security, the FI can submit a pricing challenge case within OPCS. TOS will review the challenge, validate the pricing source and date with a response to the FI within 24 to 48 hours.
Draft OPCS Rules	FDIC Calculation: OPCP has indicated that a 'proxy' FDIC insurance calculation, based on the information received through OPCS, will dictate the collateral requirement for a FI.	
Draft OPCS Rules	FDIC Calculation: The official books and records of deposits, collateral and FDIC coverage must be maintained by the FI. FIs cannot rely on an external calculation of FDIC coverage that is not consistent with the rules of FDIC. By accepting the proposed rules, the FI is potentially exposing itself to discrepancies on FDIC insurance and collateral calculations without a suitable dispute resolution process. More information is needed around the mechanics of how information is passed between the FI and OPCS for these calculations, but the final design for this rule must ensure the integrity of the official books and records maintained by the FI.	<p>OPCS is designed to perform a "proxy" FDIC insurance coverage calculation at the FI and PU TIN/Account Type level. This functionality is in place to ensure FIs are not subject to excess collateral requirements by not recognizing FDIC insured deposits.</p> <p>It is important to note, a PU's FDIC insurance coverage is not determined at the TIN level. While TIN is generally accepted as a unique identifier all FIs will have on file and can provide, it is possible that the OPCS proxy FDIC calculation relying on the PU's TIN could result in an overstated or understated FDIC insured PU deposits reflected in OPCS.</p> <p>TOS recognizes depository institutions with more than 2 million deposit accounts are subject to 12 CRF 370 which goes into effect April 1, 2017 with a three year compliance window. TOS is exploring alternatives post 7/1/2017 OPCS go-live to accomodate 12 CRF 370 rule impacted and certified compliant FIs.</p> <p>OPCS is not taking the place of the official books and records maintain by the FI for FDIC coverage.</p>
Draft OPCS Rules	As written in the proposed rules, all information furnished to OPCS will be open to public records requests. FIs have great concern for this overly expansive view of what is going to be considered 'public' and the release of sensitive information could potentially expose FI's and Ohio Public Entities to privacy risk.	Any record kept in OPCS that is deemed a public record is subject to release if a proper request in made pursuant to Revised Code section 149.43, et seq.
Draft OPCS Rules	Specific to release of SCALE evaluation information, SCALE appears to be a modified version of the CAMELS ratings system. Under CAMELS, ratings are not released to the public, helping to prevent a possible 'bank run.' All regulatory exam materials are considered highly confidential, including the CAMELS, and the CAMELS is never released by supervisory agencies.	<p>SCALE does not imply or construe that TOS is a de facto ratings agency and TOS will not produce a CAMELS rating. The office will be evaluating FIs via the objective and reproducible SCALE model utilizing publically available information to determine appropriateness for a reduced collateral floor. It is not a requirement for FI's participating in OPCS to apply for a reduced collateral floor. SCALE scores will only be generated for FIs who voluntarily apply for a reduced collateral floor.</p> <p>TOS will release public records pursuant to ORC 149.43, et seq</p>
Draft OPCS Rules	While the underlying data and criteria TOS is going to consider for the SCALE evaluation are gathered from public sources, the SCALE evaluation itself is not in the public domain. This is new and sensitive information that TOS is creating that does not currently exist.	Any record kept in OPCS that is deemed a public record is subject to release if a proper request in made pursuant to Revised Code section 149.43, et seq.

Draft OPCS Rules	There are numerous exemptions under the federal Freedom of Information Act and the Ohio Public Records Act relating to trade secrets, commercial or financial and similar types of information. The type of information TOS is requesting may fall under those exemptions.	Any record kept in OPCS that is deemed a public record is subject to release if a proper request is made pursuant to Revised Code section 149.43, et seq.
Draft OPCS Rules	The Division of Financial Institutions regulates state-chartered banks and credit unions and conducts examinations, supervision and regulatory activities. Much of the information the Division gathers is considered confidential and exempt from Ohio Public Records Act requests. We urge TOS to tap into the Division's expertise in the handling of FI confidential information.	<p>The Ohio Department of Commerce Division of Financial Institutions has specific Revised Code sections that exempt certain public records.</p> <p>TOS will meet with DFI in the future.</p> <p>TOS will release public records pursuant to ORC 149.43, et seq</p>
Draft OPCS Rules	Release of this type of information contained within OPCS brings up securities laws concerns because if this information filters out to financial markets, it may affect the price of bank securities.	TOS will release information pursuant to Ohio Sunshine Laws. In the event that you are concerned that the release of information would be in violation of a specific law, please contact our legal counsel.